

House File 118 - Introduced

HOUSE FILE 118

BY SHIPLEY

A BILL FOR

1 An Act relating to carrying and possessing weapons and
2 acquiring pistols and revolvers, providing penalties, and
3 including applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CARRYING AND POSSESSING WEAPONS WITHOUT A PERMIT

Section 1. Section 232.52, subsection 2, paragraph a, subparagraph (4), subparagraph division (a), subparagraph subdivision (viii), Code 2019, is amended to read as follows:

(viii) Section 724.4 if the child used the knife in the commission of a crime on school grounds.

Sec. 2. Section 724.2A, Code 2019, is amended to read as follows:

724.2A Peace officer — defined — reserved peace officer included.

As used in sections 724.4, 724.6, and 724.11, “*peace officer*” includes a reserve peace officer as defined in section 80D.1A.

Sec. 3. Section 724.4, Code 2019, is amended by striking the section and inserting in lieu thereof the following:

724.4 Use of knife in the commission of a crime.

A person who goes armed with a knife on or about the person, if the person uses the knife in the commission of a crime, commits an aggravated misdemeanor.

Sec. 4. Section 724.4B, subsection 2, Code 2019, is amended to read as follows:

2. Subsection 1 does not apply to the following:

~~a. A person listed under section 724.4, subsection 4, paragraphs “b” through “f” or “j”.~~

~~b. a.~~ A person who has been specifically authorized by the school to go armed with, carry, or transport a firearm on the school grounds, including for purposes of conducting an instructional program regarding firearms.

~~c. b.~~ A licensee under chapter 80A or an employee of such a licensee, while the licensee or employee is engaged in the performance of duties, and if the licensee or employee possesses a valid professional or nonprofessional permit to carry weapons issued pursuant to this chapter.

c. A member of the armed forces of the United States or of the national guard or person in the service of the United

1 States, when the weapons are carried in connection with the
2 person's duties as such.

3 d. A correctional officer, when the officer's duties
4 require, serving under the authority of the Iowa department of
5 corrections.

6 e. A person who for any lawful purpose carries an unloaded
7 pistol, revolver, or other dangerous weapon inside a closed and
8 fastened container or securely wrapped package which is too
9 large to be concealed on the person.

10 f. A person who for any lawful purpose carries or transports
11 an unloaded pistol or revolver in a vehicle inside a closed
12 and fastened container or securely wrapped package which is
13 too large to be concealed on the person or inside a cargo
14 or luggage compartment where the pistol or revolver will not
15 be readily accessible to any person riding in the vehicle or
16 common carrier.

17 g. A law enforcement officer from another state when the
18 officer's duties require the officer to carry the weapon and
19 the officer is in this state for any of the following reasons:

20 (1) The extradition or other lawful removal of a prisoner
21 from this state.

22 (2) Pursuit of a suspect in compliance with chapter 806.

23 (3) Activities in the capacity of a law enforcement officer
24 with the knowledge and consent of the chief of police of the
25 city or the sheriff of the county in which the activities occur
26 or of the commissioner of public safety.

27 **Sec. 5. Section 724.5, Code 2019, is amended by striking the**
28 **section and inserting in lieu thereof the following:**

29 **724.5 Availability of permit not to be construed as**
30 **prohibition on unlicensed carrying of weapons.**

31 **The availability of a professional or nonprofessional permit**
32 **to carry weapons under this chapter shall not be construed**
33 **to impose a general prohibition on the unlicensed carrying,**
34 **whether openly or concealed, of a deadly weapon, including a**
35 **loaded firearm.**

DIVISION II

ACQUIRING PISTOLS AND REVOLVERS AND PROHIBITED TRANSFERS

Sec. 6. Section 29C.25, subsection 1, paragraph b, Code 2019, is amended to read as follows:

b. Suspend or revoke, except in accordance with section 724.13, a permit issued pursuant to section 724.6 or 724.7 or ~~724.15~~.

Sec. 7. Section 724.11A, Code 2019, is amended to read as follows:

724.11A Recognition.

A valid permit or license issued by another state to any nonresident of this state shall be considered to be a valid permit or license to carry weapons issued pursuant to this chapter, except that such permit or license shall not be ~~considered to be a substitute for a permit to acquire pistols or revolvers issued pursuant to section 724.15~~ deemed to satisfy the requirements of section 724.15.

Sec. 8. Section 724.15, Code 2019, is amended by striking the section and inserting in lieu thereof the following:

724.15 Acquiring pistols or revolvers.

1. It is the intent of this section to satisfy federal requirements of 18 U.S.C. §922(t)(3) in order to acquire pistols or revolvers. As of July 1, 2019, the state shall no longer issue a permit to acquire. In order to acquire a pistol or revolver from a federally licensed firearms dealer, a person is required to have a valid permit to carry weapons issued in accordance with this chapter or the person must complete a satisfactory national instant criminal background check pursuant to 18 U.S.C. §922(t).

2. A person shall not acquire a pistol or revolver who is subject to any of the following:

a. Is under twenty-one years of age.

b. Is prohibited by section 724.26 or federal law from possessing, shipping, transporting, or receiving a firearm.

c. Is prohibited by court order from possessing, shipping,

1 transporting, or receiving a firearm.

2 3. An issuing officer who finds that a person issued a
3 permit to acquire pistols or revolvers under this chapter
4 prior to July 1, 2019, has been arrested for a disqualifying
5 offense or who is the subject of proceedings that could lead
6 to the person's ineligibility for such permit, may immediately
7 suspend such permit. An issuing officer proceeding under
8 this subsection shall immediately notify the permit holder
9 of the suspension by personal service or certified mail on a
10 form prescribed and published by the commissioner of public
11 safety and the suspension shall become effective upon the
12 permit holder's receipt of such notice. If the suspension is
13 based on an arrest or a proceeding that does not result in a
14 disqualifying conviction or finding against the permit holder,
15 the issuing officer shall immediately reinstate the permit upon
16 receipt of proof of the matter's final disposition. If the
17 arrest leads to a disqualifying conviction or the proceedings
18 to a disqualifying finding, the issuing officer shall revoke
19 the permit. The issuing officer may also revoke the permit of
20 a person whom the issuing officer later finds was not qualified
21 for such a permit at the time of issuance or who the officer
22 finds provided materially false information on the permit
23 application. A person aggrieved by a suspension or revocation
24 under this subsection may seek review of the decision pursuant
25 to section 724.21A, Code 2018.

26 Sec. 9. Section 724.16, Code 2019, is amended to read as
27 follows:

28 **724.16 ~~Permit to acquire required — transfer prohibited~~**
29 **Pistols and revolvers — acquiring or transferring prohibitions.**

30 ~~1. Except as otherwise provided in section 724.15,~~
31 ~~subsection 2, a~~ A person who acquires ownership of a pistol or
32 ~~revolver without a valid permit to acquire pistols or revolvers~~
33 ~~or a person who transfers ownership of a pistol or revolver~~
34 ~~to a person who does not have in the person's possession a~~
35 ~~valid permit to acquire pistols or revolvers~~ from a federally

1 licensed firearms dealer in violation of section 724.15 is
2 guilty of an aggravated misdemeanor.

3 2. A person who transfers ownership of a pistol or revolver
4 to a person that the transferor knows is prohibited by section
5 724.15 from acquiring ownership of a pistol or revolver commits
6 a class "D" felony.

7 Sec. 10. Section 724.21A, subsections 1, 7, and 8, Code
8 2019, are amended to read as follows:

9 1. In any case where the sheriff or the commissioner of
10 public safety denies an application for or suspends or revokes
11 a permit to carry weapons ~~or a permit to acquire pistols~~
12 ~~or revolvers~~, the sheriff or commissioner shall provide a
13 written statement of the reasons for the denial, suspension, or
14 revocation and the applicant or permit holder shall have the
15 right to appeal the denial, suspension, or revocation to an
16 administrative law judge in the department of inspections and
17 appeals within thirty days of receiving written notice of the
18 denial, suspension, or revocation.

19 7. In any case where the issuing officer denies an
20 application for, or suspends or revokes a permit to carry
21 weapons ~~or a permit to acquire pistols or revolvers~~ solely
22 because of an adverse determination by the national instant
23 criminal background check system, the applicant or permit
24 holder shall not seek relief under [this section](#) but may pursue
25 relief of the national instant criminal background check system
26 determination pursuant to Pub. L. No. 103-159, sections 103(f)
27 and (g) and 104 and [28 C.F.R. §25.10](#), or other applicable law.
28 The outcome of such proceedings shall be binding on the issuing
29 officer.

30 8. If an applicant or permit holder appeals the decision
31 by the sheriff or commissioner to deny an application for or
32 suspend or revoke a permit to carry weapons or a permit to
33 acquire pistols or revolvers, and it is later determined on
34 appeal the applicant or permit holder is eligible to be issued
35 or possess a permit to carry weapons or a permit to acquire

1 pistols or revolvers, the applicant or permit holder shall
 2 be awarded court costs and reasonable attorney fees. If the
 3 decision of the sheriff or commissioner to deny an application
 4 for or suspend or revoke a permit to carry weapons ~~or a permit~~
 5 ~~to acquire pistols or revolvers~~ is upheld on appeal, or the
 6 applicant or permit holder withdraws or dismisses the appeal,
 7 the political subdivision of the state representing the sheriff
 8 or the state department representing the commissioner shall be
 9 awarded court costs and reasonable attorney fees.

10 Sec. 11. Section 724.27, subsection 1, unnumbered paragraph
 11 1, Code 2019, is amended to read as follows:

12 The provisions of [section 724.8](#), section 724.15, subsection
 13 \pm 2, and [section 724.26](#) shall not apply to a person who is
 14 eligible to have the person's civil rights regarding firearms
 15 restored under [section 914.7](#) if any of the following occur:

16 Sec. 12. REPEAL. Sections 724.17, 724.18, 724.19, and
 17 724.20, Code 2019, are repealed.

18 Sec. 13. APPLICABILITY OF PERMIT TO ACQUIRE PISTOLS OR
 19 REVOLVERS ISSUED PRIOR TO EFFECTIVE DATE. A permit to acquire
 20 issued under the provisions of chapter 724, Code 2019, prior to
 21 July 1, 2019, shall be considered a valid permit to acquire as
 22 long as the permit has not expired unless the person becomes
 23 ineligible to acquire a pistol or revolver.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
 26 the explanation's substance by the members of the general assembly.

27 This bill relates to carrying and possessing weapons and
 28 acquiring pistols and revolvers.

29 DIVISION I — CARRYING AND POSSESSING WEAPONS WITHOUT A
 30 PERMIT. The bill strikes Code section 724.4 relating to the
 31 crime of carrying dangerous weapons, an aggravated misdemeanor,
 32 without a valid permit or in other enumerated circumstances.
 33 Instead, the bill section creates a new crime of going armed
 34 with a knife in the commission of a crime, an aggravated
 35 misdemeanor. The bill amends Code section 232.52(2), by

1 allowing a juvenile court to enter a dispositional order
2 suspending or revoking a child's driver's license or operating
3 privilege where the child commits a delinquent act in violation
4 of Code section 724.4 and the commission of the delinquent act
5 is on school grounds. The bill also makes conforming changes
6 to Code section 724.4B, relating to the carrying of weapons on
7 school grounds, by specifically identifying certain categories
8 of persons who are authorized to carry weapons on school
9 grounds that were previously identified by reference to Code
10 section 724.4, paragraphs "b" through "f" or "j".

11 The bill strikes Code section 724.5 relating to a person's
12 duty to carry a valid permit to carry certain weapons for
13 which a permit has been issued to the person and replaces that
14 Code section with a provision stating that the availability
15 of a professional or nonprofessional permit to carry weapons
16 shall not be construed to impose a general prohibition on the
17 unlicensed carrying of a deadly weapon including a loaded
18 firearm.

19 DIVISION II — ACQUIRING PISTOLS AND REVOLVERS AND
20 PROHIBITED TRANSFERS. Current law provides that any person who
21 intends to purchase a pistol or revolver is required to first
22 obtain an annual permit to acquire pistols or revolvers unless
23 the person is otherwise exempt from obtaining such a permit.
24 It is the intent of the bill to satisfy federal requirements of
25 18 U.S.C. §922(t)(3) in order to acquire a pistol or revolver.
26 The bill provides that as of July 1, 2019, the state shall no
27 longer issue a permit to acquire. In order to acquire a pistol
28 or revolver from a federally licensed firearms dealer, a person
29 is required to have a valid permit to carry weapons issued in
30 accordance with Code chapter 724 or the person must complete
31 a satisfactory national instant criminal background check
32 pursuant to 18 U.S.C. §922(t). The bill provides that a valid
33 permit to carry weapons or license issued by another state to
34 any nonresident of this state does not satisfy the requirements
35 to acquire a pistol or revolver in this state.

1 The bill also makes a conforming change to Code section
2 29C.25 due to the elimination of the permit to acquire.

3 Under the bill, a person is not eligible to acquire a pistol
4 or revolver if the person is less than 21 years of age, is
5 prohibited by Code section 724.26 (felon in possession of a
6 firearm), federal law, or is prohibited by a court order from
7 possessing, shipping, transporting, or receiving a firearm.

8 The bill provides a permit to acquire a pistol or revolver
9 issued under Code chapter 724 (Code 2019) prior to July 1,
10 2019, shall be considered a valid permit to acquire as long as
11 the permit has not expired unless the person becomes ineligible
12 to acquire a pistol or revolver.

13 The bill, in Code section 724.15, provides that a permit to
14 acquire firearms issued prior to July 1, 2019, may be suspended
15 or revoked by the issuing officer and the aggrieved permit
16 holder may file an appeal with an administrative law judge
17 under Code section 724.21A as written in the 2019 Code.

18 By striking the requirement to obtain a permit to acquire a
19 pistol or revolver, and moving certain requirements to acquire
20 a pistol or revolver into Code section 724.15 as amended in the
21 bill, the bill repeals Code sections 724.17 (application for
22 permit to acquire — criminal history check), 724.18 (procedure
23 for making application for permit to acquire), 724.19 (issuance
24 of annual permit to acquire), and 724.20 (validity of permit to
25 acquire pistols or revolvers).

26 The bill amends Code section 724.16 by providing that a
27 person who acquires ownership of a pistol or revolver from a
28 federally licensed firearms dealer in violation of Code section
29 724.15 is guilty of an aggravated misdemeanor. Currently, a
30 person who acquires ownership of a pistol or revolver without
31 a valid permit to acquire pistols or revolvers or a person
32 who transfers ownership of a pistol or revolver to a person
33 who does not have in the person's possession a valid permit
34 to acquire pistols or revolvers is guilty of an aggravated
35 misdemeanor, except as otherwise provided in Code section

1 724.15(2).

2 The bill makes a conforming change to Code section 724.27
3 relating to the restoration of firearms rights.

4 An aggravated misdemeanor, as referenced in the bill, is
5 punishable by confinement for no more than two years and a fine
6 of at least \$625 but not more than \$6,250.